



U.S. Department
of Transportation
**Federal Aviation
Administration**

JUN 19 2013

Mr. Glen Joerger
President, National Airlines
Citadel II Building
5955 T.G. Lee Boulevard, Suite 500
Orlando, FL 32822

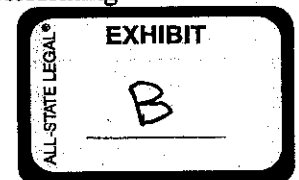
Dear Mr. Joerger:

Thank you for your letters of May 30 and June 6, 2013, providing "notice of a Federal Aviation Administration (FAA) Non-Premium War Risk claim" involving a National Air Cargo Group Inc. (NAC) 747-400 Boeing Conversion Freighter MSN 25630, N949CA. Your letter of June 6 provides supplemental information explaining the reasons why NAC believes the incident involving N949CA is a "war risk occurrence." However, the FAA need not address this question because your non-premium Hull & Liability Policy, NON-PR-H&L-9.28.11-MUA was not applicable to the operation being performed by N949CA at the time of the incident giving rise to your claim.

You stated in your May 30 letter that N949CA crashed on April 29, 2013, shortly after take off from Bagram Air Base, Afghanistan, with seven crew members aboard. You indicated that N949CA was carrying five vehicles and other cargo as part of the United States Transportation Command Multimodal Transportation Contract, Solicitation Number HTC711-12-R-R003, Contract Award Number HTC711-12- D-R010 (corrected award number is per USTRANSCOM) hereinafter "the DOD Multimodal Contract"). Regardless of the cause of this crash, operations performed under the Multimodal Contract with the Department of Defense (DOD) are not covered by your non-premium policy. NAC's "Certificate of Insurance," maintained in the Aviation Insurance Data Management System (ADMIS) and readily accessible to NAC, indicates "[p]olicies are currently in effect for USCENTCOM – CRAF Contract – FY 2013 from 10/1/2012 to 9/30/2013." DOD has confirmed that DOD Contract HTC711-12-DR010 is not a "Civil Reserve Air Fleet (CRAF) Contract." Moreover, DOD Contract HTC711-12-D-R010 provides, in relevant part:

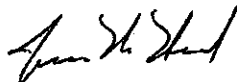
4.2. Contractor Bodily Injury and Property Damage Liability

4.2.1. Contractors are required to maintain bodily injury and property damage liability insurance coverage in amounts equal to, or in excess of, those customarily used in the commercial marketplace in the zones where services will be performed and shall be commensurate with any legal requirements of the locality and sufficient to meet normal and customary claims. The insurance coverage shall provide for bodily injury and property damage liability covering the operation of all automobiles, trucks, aircraft, and ocean vessels used in connection with performing the contract.



We reject NAC's assertion that coverage from NON-PR-H&L-9.28.11-MUA extends to the operations of NAC aircraft under the DOD Multi-Modal Contract because participation in the DOD CRAF Contract is a prerequisite requirement of participation in the DOD Multimodal Contract. The contract and associated solicitation documents for the DOD Multimodal Contract make the Federal government's intent clear; contractors are required to maintain liability insurance to cover for war risk losses resulting from operations performed under said contract. A contractor cannot request an FAA Non-Premium War Risk Insurance Policy. FAA Non-Premium War Risk Insurance policies can only be issued at the request of the DOD. We have confirmed with DOD that it at no time requested that the FAA provide non-premium war risk insurance for any air carrier performing operations under the DOD Multimodal Contract. Therefore, we conclude that the unfortunate crash of N949CA is not covered under Policy NON-PR-H&L-9.28.11-MUA regardless of cause.

Sincerely,



for Wayne T. Heibeck
Manager, Management Staff
FAA Office of Policy, International Affairs, and Environment